

**NASD REGULATION, INC. AWARD**

**NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

**Name of Claimant**

Gary Fetman

v. -

Arbitration No.  
97-00072

**Name of Respondents**

Monitor Investment Group  
Kenneth Fuina  
Mark Burton  
Norman Lescht  
William Palla  
Michael Galasso  
Ron Doria  
Emanuel Gennuso  
Michael Cavallo

---

**REPRESENTATION**

|  |  |
|--|--|
| For Claimant:                            | Timothy N. Will, Esq.<br>Albert & Will, LLP<br>Torrance, California              |
| For Respondent Monitor Investment Group: | Corporate Representative<br>Monitor Investment Group, Inc.<br>New York, New York |
| For Respondent Kenneth Fuina:            | Martin E. Fiel, Esq.<br>Attorney at Law<br>New York, New York                    |
| For Respondent Mark Burton:              | Marc S. Dreier, Esq.<br>Dreier & Baritz, LLP<br>New York, New York               |
| For Respondent Norman Lescht:            | Norman Lescht, acting in pro per<br>East Brunswick, New Jersey                   |

|                                 |  |
|---------------------------------|--|
| For Respondent William Palla:   | William Palla, acting in pro per<br>Haverford, Pennsylvania  |
| For Respondent Michael Galasso: | Michael Galasso<br>In pro per<br>Staten Island, New York     |
| For Respondent Ron Doria:       | Ron Doria, acting in pro per<br>Staten Island, New York      |
| For Respondent Emanuel Gennuso: | Emanuel Gennuso, acting in pro per<br>Brooklyn, New York     |
| For Respondent Michael Cavallo: | Michael Cavallo, acting in pro per<br>Old Bridge, New Jersey |

#### CASE INFORMATION

|   |                  |
|---|------------------|
| Statement of Claim filed:   | January 13, 1997 |
| Claimant's Submission Agreement signed:                               | October 3, 1996  |
| Statement of Answer filed by Respondent<br>Monitor Investment Group:  | no answer        |
| Respondent Monitor Investment Group's<br>Submission Agreement signed: | none received    |
| Statement of Answer filed by Respondent<br>Kenneth Fuina:             | July 28, 1997    |
| Respondent Kenneth Fuina's<br>Submission Agreement signed:            | June 10, 1997    |
| Statement of Answer filed by Respondent<br>Mark Burton:               | July 31, 1997    |
| Respondent Mark Burton's<br>Submission Agreement signed:              | June 4, 1997     |
| Statement of Answer filed by Respondent<br>Norman Lescht:             | March 17, 1997   |

### **HEARING INFORMATION**

Pre-Hearing Conference Dates / Sessions: June 26, 1997 (1 session)  
October 8, 1997 (1 session)  
December 12, 1997 (1 session)

Hearing Dates / Sessions: August 11, 1998 (1 session)  
August 12, 1998 (2 sessions)  
August 13, 1998 (3 sessions)

Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimant alleged unauthorized trading; failure to execute; misrepresentation; unlicensed agents/brokers; failure to supervise; control person liability; market manipulation; and breach of fiduciary duty.

Respondents denied each and every allegation of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant sought compensatory damages in the amount of \$450,000.00, rescission, punitive damages, pre- and post-award interest at 9 percent per annum, costs and attorney's fees.

Respondents sought complete dismissal of Claimant's Statement of Claim, costs and attorney's fees.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in either counterpart copies or that a handwritten signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

On August 12, 1998, during the hearing, Claimant dismissed with prejudice Respondent Galasso from the arbitration.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. Each party shall bear their own costs, including attorney's fees.

#### **FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

|  |                      |
|--|----------------------|
| One (1) Single Arbitrator Pre-Hearing Conference @ \$300.00/Conference | = \$300.00           |
| Two (2) Full Panel Pre-Hearing Conferences @ \$750.00/Conference       | = \$1,500.00         |
| <u>Six (6) Hearing Sessions @ \$750.00/Session</u>                     | <u>= \$4,500.00</u>  |
| Total Forum Fees Assessed  | = \$6,300.00         |
| <br>Claimant's One-Half Assessment                                     | = \$3,150.00         |
| <u>Claimant's Credit for Hearing Session Deposit</u>                   | <u>= ( \$750.00)</u> |
| Claimant's Balance Due   | = \$2,400.00         |
| <br><u>Respondents' (joint and several) One-Half Assessment</u>        | <u>= \$3,150.00</u>  |
| Respondents' (joint and several) Balance Due                           | = \$3,150.00         |

Fees are payable to NASD Regulation, Inc.

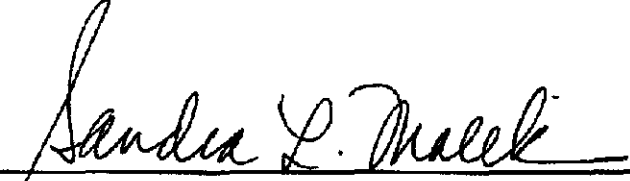
#### **OTHER FEES**

Pursuant to Rule 10333 of the Code, Respondent Monitor Investment Group, Inc. has paid to NASD Regulation, Inc. the \$350.00 member surcharge previously invoiced.

**ARBITRATORS**

| <b><u>Name</u></b> ..... | <b><u>Arbitrators</u></b> |
|--------------------------|---------------------------|
| Sandra Malek, Esq.       | Public Arbitrator         |
| Richard Leigh            | Industry Arbitrator       |
| David Anderson           | Public Arbitrator         |

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Sandra Malek, Esq.

\_\_\_\_\_  
Richard Leigh

\_\_\_\_\_  
David Anderson

Date of Service: 22 September 1998

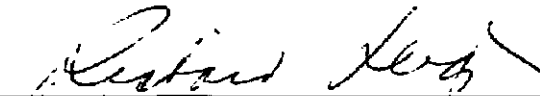
**ARBITRATORS**

| <u>Name</u>        | <u>Arbitrators</u>  |
|--------------------|---------------------|
| Sandra Malek, Esq. | Public Arbitrator   |
| Richard Leigh      | Industry Arbitrator |
| David Anderson     | Public Arbitrator   |

**Concurring Arbitrators' Signatures**

---

Sandra Malek, Esq.



---

Richard Leigh

---

David Anderson

Date of Service: 22 September 1998

**ARBITRATORS**

| <u>Name</u>        | <u>Arbitrators</u>  |
|--------------------|---------------------|
| Sandra Malek, Esq. | Public Arbitrator   |
| Richard Leigh      | Industry Arbitrator |
| David Anderson     | Public Arbitrator   |

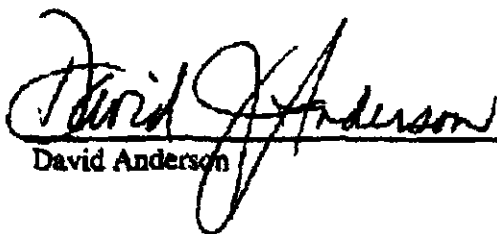
**Concurring Arbitrators' Signatures**

---

Sandra Malek, Esq.

---

Richard Leigh

  
David Anderson

Date of Service: 22 September 1998